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TRANSMITTAL SLIP	DATE
TO: RSB/RMD/OIS	23 Feb 82
ROOM NO. 1236	BUILDING AMES

REMARKS:

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FROM:		
ROOM NO.	BUILDING	EXTENSION

FORM NO. 241 REPLACES FORM 36-8 (47)

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Central Intelligence Agency

Washington, D.C. 20505

Approved For Release 2002/01/20 : CIA-RDP86-00674R000100230020-5

19 February 1982

The Honorable David A. Stockman
Director, Office of Management and Budget
Washington, D.C. 20503

Dear Dave:

In response to the 5 February 1982 letter from your General Counsel, Michael J. Horowitz, enclosed are the Agency's comments on the proposed Executive Order entitled "National Security Information." These comments are keyed to the section and page numbers of the proposed order.

In the comment relating to Section 4.2(a) of the proposed order, I am recommending that the sentence concerning "special access programs pertaining to cryptology" be deleted, in lieu of my previous suggestion that a limiting definition of "cryptology" be added. This has been coordinated with the National Security Agency, and I understand the Department of Defense is making a similar recommendation.

Beyond the deletion of this sentence, I am also recommending the deletion of the newly added Attorney General authority prescribed in Section 4.1(d). The question of when classified information may be used in court is settled by long-standing practice and Executive Order 12333 and its implementing procedures. If the intent of this provision is to confer new authority on the Attorney General in this area, I strongly object to its inclusion in the proposed order.

I concur with the Department of Defense on a need to protect technological data not now adequately protected. I have discussed with the Secretary of Defense certain options for achieving this, such as: (a) amending the order to define "damage to the national security" to include either a disadvantage to the United States or an advantage to a foreign power, or (b) having the National Security Council directive implementing the order provide limited waiver provisions governing security and safeguarding requirements. There may be other options to achieve this purpose. I would hope that before putting the Executive Order in final form there will be an opportunity to assess the options which Defense deems most effective for providing this additional protection for meeting its needs in this respect.

Overall, the proposed order is a decided improvement over the current Executive Order 12065. I endorse in particular the simplification of requirements in the new order, as well as the increased emphasis on safeguarding national security information.

Yours,

William J. Casey
Director of Central Intelligence

Enclosure

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OIS 82-125/1

DD/A Registry
82-0008/8
Executive Registry
82-2120/1

18 FEB 1982

MEMORANDUM FOR: Director of Central Intelligence

THROUGH: Deputy Director of Central Intelligence
Executive Director

FROM: Harry E. Fitzwater
Deputy Director for Administration

SUBJECT: Revision of Executive Order 12065,
National Security Information

1. Attached at Tab A for your signature is a letter to the Director, Office of Management and Budget (OMB), forwarding the Agency's comments on the latest proposed revision of Executive Order 12065. The proposed revision (attached at Tab B) incorporates several of the changes recommended in the Agency's previous comments forwarded under your 18 January 1982 letter to the Assistant to the President for National Security Affairs (attached at Tab C).

2. The concern you expressed in that letter regarding the use of the word "cryptology" in the new order has resulted in additional coordination within the Intelligence Community. The Office of Information Services, DDA, has reached an understanding on this subject with the National Security Agency that is acceptable to concerned Agency components. This understanding is reflected in our current comment D, which recommends that a sentence in the proposed order be deleted. This sentence provides that the Secretary of Defense would have sole responsibility for establishing special access programs relating to cryptology.

3. The attached six comments to be forwarded to OMB have been coordinated in substance with the Directorates, the Office of Security, the Office of General Counsel, and the DCI Security Committee. The inclusion of the recommendations they contain will result in a new Executive order quite acceptable to the Agency. As you know, the new order even as presently drafted is a great improvement over the current Executive Order 12065.

STAT

Harry E. Fitzwater

Attachments:
As stated

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SUBJECT: Revision of Executive Order 12065, National Security Information

CONCUR:

/S/ John N. McMahon
Executive Director

18 FEB 1981
Date

Deputy Director of Central Intelligence

Date

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SUBJECT: Revision of Executive Order 12065, National Security Information

CONCUR:

_____ _____
Executive Director Date

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Deputy Director of Central Intelligence Date

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